

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

THOMAS A. JAKUBIK

V

No. 03-0367

NORTHERN ILLINOIS GAS COMPANY

d/b/a NICOR GAS COMPANY

Complaint as to interrupted gas service in Mount Prospect, Illinois )

Chicago, Illinois

October 1, 2003

Met pursuant to notice at 11:00 a.m.

BEFORE :

MR. GLENNON DOLAN, Administrative Law Judge.

APPEARANCES:

MR. THOMAS JAKUBIK,  
1125 Weiland Road,  
Buffalo Grove, Illinois 60089;  
appeared pro se;

SONNENSCHN NATH & ROSENTHAL, LLP, by  
MS. SARAH A. NAUMER and  
MS. LETISSA E. CARVER REID,  
8000 Sears Tower,  
Chicago, Illinois 60606,  
appeared for the respondent.

SULLIVAN REPORTING COMPANY, by  
Teresann B. Giorgi, CSR

1		<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>	
2			Re- By
3	<u>Witnesses:</u>	<u>Dir.</u> <u>Crx.</u> <u>dir.</u> <u>crx.</u>	<u>Examiner</u>
4	NONE		
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10		<u>E</u> <u>X</u> <u>H</u> <u>I</u> <u>B</u> <u>I</u> <u>T</u> <u>S</u>	
11	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
12	NONE		
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1 JUDGE DOLAN: By the power and authority of  
2 the Illinois Commerce Commission, I call Case  
3 No. 03-0367, Thomas Jakubik versus NICOR to order.  
4 Will the parties please identify  
5 themselves for the record.  
6 MR. JAKUBIK: Thomas Jakubik, complainant.  
7 JUDGE DOLAN: Can you give your address.  
8 MR. JAKUBIK: 1125 Weiland Road, Buffalo Grove,  
9 Illinois.  
10 MS. NAUMER: Sarah Naumer and Letissa Reid on  
11 behalf of NICOR Gas Company, the law firm  
12 Sonnenschein Nath & Rosenthal, 8000 Sears Tower,  
13 Chicago, Illinois 60606.  
14 JUDGE DOLAN: Okay. Originally, we were here  
15 today for a status, but Mr. Jakubik filed,  
16 basically, a motion to compel, indicating that NICOR  
17 did not sufficiently respond to his data requests.  
18 And, I take it, nothing has been resolved about  
19 those issues.  
20 MR. JAKUBIK: Just motions, she doesn't want to  
21 give it up, so. . .  
22 JUDGE DOLAN: Well, Mr. Jakubik, I have a

1 question for you.

2 MR. JAKUBIK: Okay.

3 JUDGE DOLAN: What is this other address -- or

4 the other building that you're attempting to get

5 information about?

6 MR. JAKUBIK: Well, the other buildings -- well,

7 obviously, this is a normal thing, that they go out

8 and take meters, right? So, I want to find out who

9 else in the area has also had the opportunity to

10 have their meter ripped off.

11 JUDGE DOLAN: So, you're claiming that this

12 is -- I mean, the description -- you being a

13 realtor, I find it difficult that you couldn't

14 provide addresses for the buildings that you're

15 talking about, or is it just one building that

16 you're talking about?

17 MR. JAKUBIK: No. I want to know which ones

18 have they removed the gas meters from.

19 JUDGE DOLAN: So, I mean, the corridor that

20 you're talking about, all of the area that you're

21 dealing with -- I mean, is that an area around, is

22 that what you're talking about?

1       MR. JAKUBIK: Yeah. Just a group of six-flats.  
2       JUDGE DOLAN: Okay.  
3       MR. JAKUBIK: They're all similar-type  
4 buildings.  
5       JUDGE DOLAN: Okay. Well, I feel in that  
6 matter, I do have to agree with NICOR that they  
7 do -- you know, they have an obligation to keep  
8 clients' --  
9       MR. JAKUBIK: Well, I'm not asking for their  
10 clients' names or addresses. I'm asking for which  
11 buildings they took the meters off of, similar to  
12 mine.  
13       MS. NAUMER: Your Honor, NICOR does its meter  
14 maintenance and repairs pursuant to Commission's  
15 regulations, which require them to do random  
16 sampling. Just because Mr. Jakubik's account was  
17 one that was selected through such a random sampling  
18 doesn't mean that any of the other houses he's  
19 identified in the surrounding area would have been  
20 similarly selected for such a random sampling.  
21                   I just don't think it's going to have  
22 any relevance as to whether or not NICOR conducted

1 its sampling in accordance with the Commission's  
2 regulations.

3 MR. JAKUBIK: Well, she keeps going back to  
4 Commission's regulations, but we all know that in  
5 business there's rules and there's rules. The rules  
6 that are prescribed by the ICC and there's the rules  
7 that they actually publish and they adhere to, and I  
8 don't believe the two are the same. So, that's why  
9 I'm asking for the rules.

10 MS. NAUMER: Your Honor, we abide by the  
11 Commission's regulations. Those are the governing  
12 rules.

13 MR. JAKUBIK: Well, then, why won't we be able  
14 to see them, the field guy, what he gets?

15 MS. NAUMER: I'm not aware of whether or not  
16 there's additional things that are handed to the  
17 field guys. I would have to speculate that  
18 there -- he might have some verbal ones. I have no  
19 idea. The governing regulations are the  
20 Commission's rules.

21 JUDGE DOLAN: And as far as I know, that's  
22 correct. I'm not sure if there are other -- I mean,

1 unless you want to try to discover that from some  
2 NICOR employee that you think would be able to  
3 answer that further.

4 MR. JAKUBIK: Well, that's what I asked for, too  
5 and they're refusing that, also.

6 MS. NAUMER: Because those -- whatever exists,  
7 if they do exist, are considered confidential and  
8 proprietary information. They're internal  
9 documents. If they do exist, they're going to be  
10 duplicative of the Commission's regulations. They  
11 might be -- I don't know, what they would do, maybe,  
12 in more simplistic form than the way you'd look at  
13 it as the Commission's regulations, but it would be  
14 duplicative of them. And, again, I don't know if  
15 there's any -- you know, I'm speculating.

16 MR. JAKUBIK: She has no idea what they have,  
17 that's why I'm asking for them specifically, as well  
18 as the person that, actually, did the specific work,  
19 because he'll know.

20 JUDGE DOLAN: Well, she identified the  
21 supervisor, who, I think, would be sufficient to --

22 MR. JAKUBIK: Well, the supervisor is the guy

1 who wrote some of the memos that are in the  
2 computer, but they're not giving me all the other  
3 ones that are in the computer. We just have his  
4 opinion.

5 MS. NAUMER: We have provided him everything  
6 that NICOR has in their possession that relates to  
7 these two instances that these allegations are  
8 about.

9 MR. JAKUBIK: Because, obviously, if they were  
10 taking down minutes of the conversations I was  
11 having with them, they were taking down minutes of  
12 the conversations they were having with the  
13 Mount Prospect police department, the Mount Prospect  
14 inspection department, as well as, they took down  
15 the conversation they had with the individual  
16 tenants that were calling to complain as to where  
17 their service is. So, all of that would be in the  
18 same little record that she gave me a portion of.

19 MS. NAUMER: Your Honor, I have been informed  
20 that we have provided everything in our possession.  
21 To the best of my knowledge, there is nothing  
22 further that exists.



1       MR. JAKUBIK:  You can see those are all computer  
2 records, so, there's more to it than just that.  
3 That's just the selected items.

4       MS. NAUMER:  Mr. Jakubik is speculating.  He  
5 does not know there's anything further than that.  
6 Once, again, I'm representing that we've provided  
7 everything that is in our possession.

8       JUDGE DOLAN:  Okay.  Mr. Jakubik, did you have  
9 an opportunity to talk to your tenant that called  
10 about the second -- I was reviewing these documents  
11 and it seemed like your tenant in 1A complained  
12 about a gas leak for the second shut-off.

13       MR. JAKUBIK:  No.  I haven't had an opportunity.  
14 She's been out of town.

15       JUDGE DOLAN:  And they went out there and -- as  
16 far as I can tell from procedure, it was necessary  
17 for them to shut the gas down.  But, if one of your  
18 tenants did, in fact -- it says here then, on 10/24,  
19 the tenant in 1A called in a leak.  Upon our arrival  
20 we found the regulator blowing.  The gas leak had to  
21 be fixed ASAP.  We couldn't leave it like that.

22       MR. JAKUBIK:  It also says that they called me.

1 They never called me.

2                   It's funny everybody else has been  
3 able to call me, but the gas company has an  
4 inability (sic) to call anybody.

5       MS. NAUMER: Your Honor, I would submit that's a  
6 matter for the evidentiary record.

7       JUDGE DOLAN: I agree with that.

8                   Who is -- how long have you owned this  
9 building for?

10       MR. JAKUBIK: Three years -- three, four years.

11       JUDGE DOLAN: Who is Tayana S. Moore, any ideas?

12       MR. JAKUBIK: I have no idea.

13       MS. NAUMER: Shall I take a look at the document  
14 here?

15       JUDGE DOLAN: It was one of the ones you  
16 disclosed. It's a letter dated March 6th of 2002.

17       MS. NAUMER: I can explain that. One of the  
18 things Mr. Jakubik was requesting was the letters  
19 that were delivered to his address that -- for the  
20 sampling, for the first shut-off. And these  
21 letters, while they do not have his name or any  
22 other name at that residence, it's because since it

1 is conducted pursuant to a random sampling, they  
2 don't keep every single letter that they send out.  
3 But this is the form, and the names for each one are  
4 substituted.

5 JUDGE DOLAN: Okay.

6 MS. NAUMER: So, we provided these because these  
7 are the letters that were sent, but they would have  
8 had a different name. So, Tayana (phonetic) S.  
9 Moore is just another individual that was part of  
10 the random sampling.

11 JUDGE DOLAN: Okay.

12 MS. NAUMER: Does that make senses?

13 JUDGE DOLAN: So, it would be like this backside  
14 letter -- or the March 6th, Dear Sir or Madam, would  
15 be the normal letter --

16 MS. NAUMER: Uh-hum.

17 JUDGE DOLAN: -- but then, it just happened to  
18 be Tayana Moore was one of the other people that got  
19 one of these kind of letters?

20 MS. NAUMER: Yes. And that's because they don't  
21 maintain a copy of every single one that they send.

22 JUDGE DOLAN: So, they, basically, send out a

1 form letter.

2 MR. JAKUBIK: It does say here, specifically,  
3 that they sent out the form letter.

4 JUDGE DOLAN: But, it does say in two instances  
5 that they sent one on 7/30/02 --

6 MR. JAKUBIK: Well, that's right. I understand  
7 it says that. What I'm looking for is the  
8 corresponding computer generated thing that it,  
9 actually, happened.

10 MS. NAUMER: Once, again, those records are not  
11 maintained.

12 JUDGE DOLAN: Are you claiming that you never  
13 received any letters concerning this?

14 MR. JAKUBIK: In the first occurrence, I  
15 received one letter. They gave me 30 days to  
16 respond. There never was a second letter. And  
17 there never was any phone calls from anyone, because  
18 my phone number runs 24 hours with an answering  
19 device on it. And I receive, approximately, 20 gas  
20 bills a month. So, if that letter were to come  
21 through, it would come through with the gas bills,  
22 because, obviously, they have that correct number or

1 address.

2                   So, I need to know, specifically, the  
3 computer record that showed that it, actually, did  
4 happen, because I never got it.

5       JUDGE DOLAN: Sarah, is it normal procedure  
6 that -- it says another letter was sent on 8/8/03,  
7 stating that the meter needed to be changed. We  
8 didn't hear from him. So, on the next day they went  
9 out and changed the meter. That's on this document  
10 right here (indicating). It's the very first page.

11       MS. NAUMER: It doesn't look like they changed  
12 the meter until 8/15.

13       JUDGE DOLAN: Okay. I see.

14       MS. NAUMER: So, they didn't go the next day, I  
15 don't think.

16                   And I'm not exactly sure how those  
17 time frames are set up. Once again, I would submit  
18 that's for the evidentiary record. When we supply  
19 the testimony, we'll address those issues.

20       JUDGE DOLAN: Okay.

21                   Mr. Jakubik, did you see the notice  
22 that, supposedly, was put on your building on 8/9 --

1 this is '02.

2 MR. JAKUBIK: These are apartment buildings.

3 You can put notices on them all day long. There's

4 no way that the owner can have any idea what they're

5 doing.

6 JUDGE DOLAN: Well, how often do you go out to

7 your residence -- or these buildings?

8 MR. JAKUBIK: Once a week.

9 And the tenants, being tenants, never

10 tell you anything. So, putting it on an apartment

11 building -- since we do have a telephone system in

12 this country that works, they never use it.

13 MS. NAUMER: The letters were sent to the

14 address on the account.

15 MR. JAKUBIK: Well, they never got there. So, I

16 want to see the computer thing that says it,

17 actually, was sent. You have to have something

18 that -- a billing or something, that said it was

19 sent.

20 JUDGE DOLAN: Okay. Now, this is '02 that we're

21 talking about, right? Yeah, these are both '02s.

22 Because the one part says a letter was sent on

1 8/8/03. But they're saying that on 8/9/02 they went  
2 out and posted a notice on the building.

3 I guess at this point we can do a  
4 couple of things. I can go through your questions  
5 and have you each address them one at a time, or --  
6 I think, specifically, though, I can indicate to you  
7 that I'm not going to order them to provide  
8 information on other apartment buildings in the  
9 area, because I do feel that there's a problem with  
10 confidentiality of other customers.

11 MR. JAKUBIK: You mean, the names of the  
12 customers?

13 JUDGE DOLAN: Well, even --

14 MR. JAKUBIK: Or who they ripped the meters off  
15 of?

16 JUDGE DOLAN: Well, I mean -- you know, that,  
17 again, is not relevant to this case. If it's  
18 NICOR's practice and the necessity to change the  
19 meters on certain buildings, it doesn't have any  
20 relevance to anything that goes on in this hearing.

21 I think from your standpoint you're  
22 trying to say that -- I'm not quite sure why you

1 feel that it is necessary for you to have that  
2 information for other buildings in the area.

3 MR. JAKUBIK: Because they're stating that they  
4 did certain things and I'm saying that they didn't  
5 do the things they said. They didn't send all the  
6 letters. They didn't make the phone calls. And the  
7 only way that I can substantiate it is by having a  
8 similar circumstance down the road that said, Oh,  
9 yeah, it happened to me.

10 JUDGE DOLAN: And how are you going to  
11 provide -- how are you going to find out that  
12 information if they --

13 MR. JAKUBIK: Well, if I knew which building  
14 they changed the meter on, then, I could call the  
15 guy up. I've got everybody's phone number.

16 JUDGE DOLAN: Can you do that without them  
17 providing the information, and see whether or not it  
18 took place?

19 MR. JAKUBIK: Sure, I can do that. That will  
20 take some time. Sure. But why shouldn't they just  
21 give me the information since they do all this --  
22 they have no fear. It's not a problem. I mean, we



1 always do everything correctly. So, it wouldn't be  
2 any problem with saying, On Building 1542 we took  
3 the meter off. And then, it's my responsibility to  
4 call up 1542 and ask them, How did the thing go?  
5 There's no dire secret there. There's no divulging  
6 any real information. They're not giving me the  
7 guy's name or number or anything. They're just  
8 saying, On 1542, we did the same thing. And on  
9 1782, we did the same thing, that's what we're  
10 stating here. Because, who else is going to know  
11 other than them?

12                   They claim they sent out letters, but  
13 we -- there's no substantiation here they sent out  
14 the letters, unless you have more than one person  
15 that says, I never got any letter. The same thing  
16 happened to me. Look, at what we have to go through  
17 to get this thing resolved. Do you think you're  
18 going to find a lot of American citizens that are  
19 going to go through this (indicating)?

20       MS. NAUMER: Just to try to briefly respond.  
21 Once again, the first meter change was part of the  
22 random sampling requirements. There's no basis to

1 assume that any of the buildings identified by  
2 Mr. Jakubik would have also been subject to those  
3 same circumstances.

4                   And second of all, every person has an  
5 opportunity to avail themselves to the Commission's  
6 resources. The fact that they haven't done so,  
7 would indicate that nobody has the same type of  
8 complaint.

9       MR. JAKUBIK: That's a bit naive.

10       JUDGE DOLAN: I'd say at this point, let's just  
11 go through your requests here, if that's what it's  
12 going to take and, then, we'll just let both of  
13 you -- okay, the document we're still dealing with  
14 is the one that you had originally said "subpoena,"  
15 and, then, you said -- then, you changed it to  
16 "request," and that's what they responded to, is  
17 that correct?

18       MR. JAKUBIK: Yes.

19       MS. NAUMER: Yes.

20       JUDGE DOLAN: Okay. So, Question No. 1, Any and  
21 all records, memos, letters, telephone records,  
22 computer records, entries, ledgers, services,

1 equipment records, complaints written or verbal with  
2 NICOR Gas.

3                   Now, do you feel that they've  
4 responded adequately to that, to your first --

5       MR. JAKUBIK: No, because they didn't give me  
6 the record of the conversation with the person at  
7 the president's office. They gave me the record of  
8 that person contacting the supervisor, whoever it  
9 was they contacted. Nor did they give me the record  
10 of the supervisor contacting the actual mechanics.

11       MS. NAUMER: Once, again, your Honor, it's been  
12 represented to me that we've provided all the  
13 records related to this instance that is in NICOR's  
14 possession.

15                   Mr. Jakubik is speculating that  
16 additional records exist that have not been  
17 provided. It's probably not so unusual that not  
18 every single conversation that takes place gets put  
19 into a computer database.

20       JUDGE DOLAN: Okay. I don't know what to tell  
21 you, Mr. Jakubik. If they're claiming they don't  
22 have a record, I have no way of -- you know, unless

1 you have proof --

2 MR. JAKUBIK: Why don't we wander on over to  
3 their computer system and take a look, because it's  
4 all dated and they can't erase that date. A little  
5 conversation got little date on it (sic).

6 JUDGE DOLAN: I'm sure it does, but --

7 MR. JAKUBIK: And when they sent out these --  
8 the forms, it says right on the computer the date it  
9 sent it to me. The first or the second one there.  
10 That's something that would be very difficult for  
11 them to try to erase.

12 MS. NAUMER: With all due respect, we can't have  
13 somebody going through the data and whatnot.  
14 There's just too much sensitive information that is  
15 contained therein.

16 JUDGE DOLAN: I have to agree with that one,  
17 too. I think there's just too much -- for what  
18 you're looking for, I think it's too much for us to  
19 request them -- or to require them to do such a  
20 thing.

21 But you're representing that NICOR  
22 does not save copies of letters from the customer

1 service reps, who sent those out?

2 MS. NAUMER: Yes. That has been represented to  
3 me.

4 MR. JAKUBIK: So, after a serviceman does  
5 something, they have no record of what they do with  
6 the equipment? They don't have any record, how long  
7 it took them to be there? That's how you bill.  
8 That's how they get paid. There's a bunch of  
9 supervisors out there checking where these meters  
10 are going. They don't just disappear. They have to  
11 take the new one off the rack. They have to take it  
12 out of the supply room. Somebody wrote it down.

13 JUDGE DOLAN: Well, that's not what you were  
14 talking about, Mr. Jakubik. You were talking about  
15 the phone --

16 MR. JAKUBIK: Well, it's the same thing with  
17 those conversations. In order for the top to let  
18 the bottom know that they have to go somewhere,  
19 somebody has to send them an e-mail --

20 MS. NAUMER: Your Honor --

21 MR. JAKUBIK: -- or some other type of written  
22 device, because he can't --

1 JUDGE DOLAN: Mr. Jakubik, we're on the record.  
2 Only one person can speak at a time, okay? So,  
3 please do not interrupt anybody.

4 MS. NAUMER: One of the things that we found  
5 difficult in responding to these is that it was very  
6 unclear to us exactly what he was looking for. If  
7 there are specific types of items, like he was just  
8 talking about, that he would like us to look further  
9 into, I'd be happy to take that back to my client  
10 and see what is there. But, you know, he's talking  
11 about specific, did somebody log out a meter.  
12 Certainly, that's, probably, not something that we  
13 picked up from this.

14 If there are specific things that he  
15 can identify that he would like us to look for, I'll  
16 be happy to take that back to my client. We'll see  
17 what we can do. But based on what we got from him,  
18 we provided everything that we knew of in our  
19 possession that he was asking for.

20 JUDGE DOLAN: But, when you first addressed it  
21 to me, you said something about the phone call that  
22 you made to the president's office.

1           MR. JAKUBIK:   Correct.

2           JUDGE DOLAN:   But, then, when you were talking

3   there, you were talking about what supervisor was in

4   charge of changing the meter.   So, those are two

5   different things.

6           MR. JAKUBIK:   Well, Item One was conversations.

7   But down the line there, I was asking for the exact

8   documents on the meters, where it went, why it went.

9           JUDGE DOLAN:   And --

10          MR. JAKUBIK:   You know, I mean --

11          JUDGE DOLAN:   Well, what is the difference

12   between Question No. 2 and Question No. 3 in your

13   requests?

14          MR. JAKUBIK:   That refers to the replacement of

15   the gas meter, the other one was the disruption of

16   the service.

17                          I'm looking for the record on that

18   particular meter for the last three years, or

19   whatever was hanging there for three years.   That,

20   they have.

21          MS. NAUMER:   Which one are you talking about,

22   No. 2 or No. 3?

1       MR. JAKUBIK: No. 3 states, specifically, I'm  
2 looking for the record on that particular gas meter  
3 and regulator for the last three years.

4       MS. NAUMER: And, once, again, your Honor, we've  
5 provided him with the records on that particular  
6 meter, as those records related to the two alleged  
7 instances. We did not go back for years. We say an  
8 objection as to relevancy over a three-year period  
9 of time. That's unrelated to the two instances.

10       JUDGE DOLAN: Well, how long was that meter --  
11 was that meter in place for three years at that  
12 building?

13       MS. NAUMER: I don't know.

14       JUDGE DOLAN: How long have you been with the  
15 building?

16       MR. JAKUBIK: About three -- three, four years.

17       MS. NAUMER: I think the fact that that meter  
18 was subject to the random sampling really doesn't  
19 have anything to do with what happened with that  
20 same meter three years earlier, or two years  
21 earlier, or one year earlier. Those records should  
22 not provide anything that's relevant to that



1 instance.

2 JUDGE DOLAN: Well, if the meter wasn't changed  
3 during the three years in question, it would be just  
4 your -- the gas usage records for the three-year  
5 period, correct?

6 MR. JAKUBIK: If that's true, yeah. Correct.  
7 Only the record will tell.

8 JUDGE DOLAN: And that is something NICOR should  
9 be able to identify, if the meter has been the same  
10 meter during --

11 MS. NAUMER: Yes. I would think so. Yes.

12 JUDGE DOLAN: And they don't, normally, go  
13 around changing meters very often, do they, unless  
14 there's a problem.

15 MS. NAUMER: Yeah. If something that's detected  
16 that needs to be replaced. I don't know if they --

17 JUDGE DOLAN: Go ahead.

18 MR. JAKUBIK: The other question comes in, since  
19 there was a big controversy about these lead based  
20 meters, I want to know if it's one of those.

21 JUDGE DOLAN: Are you discussing mercury --

22 MR. JAKUBIK: Mercury, excuse me.

1 MS. NAUMER: I don't think there's any reason to  
2 believe that this has anything to do with them  
3 replacing it to remove mercury.

4 JUDGE DOLAN: And I can just advise you,  
5 Mr. Jakubik, that based on another case that I do  
6 have, which, actually, is with Peoples Gas, we do  
7 not deal with the mercury contamination cases at  
8 all. That's not our jurisdiction.

9 MR. JAKUBIK: Oh, okay.

10 JUDGE DOLAN: And we can't deal with that at  
11 all.

12 MR. JAKUBIK: Okay.

13 JUDGE DOLAN: Again, I don't know if that was a  
14 problem or a concern, but that's something that this  
15 Court does not have jurisdiction to deal with.

16 MR. JAKUBIK: Okay.

17 JUDGE DOLAN: I take it, then, if you could  
18 provide him with information about the dates that  
19 the meter was placed into service at this  
20 building --

21 MS. NAUMER: Okay.

22 JUDGE DOLAN: -- and if it is during that whole

1 time period, then, there shouldn't be any question  
2 as to where the meter has been for the last three  
3 years. Even though, again, based on your complaint  
4 about disruption of service, I don't understand what  
5 relevancy the length of time that the meter has been  
6 in service -- I mean, besides the fact why they're  
7 changing the meter when they changed it.

8                   But, you're not questioning whether or  
9 not the meter was accurate.

10       MR. JAKUBIK: No. I'm not contesting the  
11 accuracy of the meter.

12       JUDGE DOLAN: You're just questioning their  
13 procedure for changing the meter.

14       MR. JAKUBIK: That's correct.

15       JUDGE DOLAN: And why the meter was changed the  
16 way it was.

17       MR. JAKUBIK: Right.

18       MS. NAUMER: So, we'll -- pursuant to your  
19 request, we'll check on whether the meter -- we'll  
20 check the date that that was placed into service or  
21 whether it was changed within the last three years.

22       JUDGE DOLAN: Yes, just to satisfy him.

1 MS. NAUMER: Okay.

2 JUDGE DOLAN: That should be something that  
3 should be fairly simple to be able to obtain.

4 MS. NAUMER: Okay.

5 JUDGE DOLAN: So, 2 is dealing with the  
6 disruption of gas service.  
7 3 is dealing with the meter itself.

8 4, I think I will have to sustain  
9 their objection because I think that's overly broad  
10 for you to request the information for all of those  
11 areas.

12 I think that 5 falls into that, also,  
13 when you're asking for other people's information.  
14 Again, NICOR -- you know, there's been a lot of  
15 feelings lately with confidentiality of other  
16 customer or of people's information in general. And  
17 I cannot feel comfortable in ordering NICOR to have  
18 to provide you with information on other people's  
19 accounts and changes. And it could be unique  
20 circumstances that, you know, there was other  
21 problems with the meters for them to need to be  
22 replaced.

1                   No. 6, you're asking for operational  
2 manuals, directives, service manuals, customer  
3 service manuals for the maintenance, replacement,  
4 customer contact --

5       MR. JAKUBIK: Right.

6       JUDGE DOLAN: -- in the disruption of past  
7 service.

8                   Now, again, you're asking for all of  
9 those buildings, again, as opposed to dealing with  
10 your own property, or is that --

11       MR. JAKUBIK: Well, since you've decided you're  
12 not going to give me any other, then just my  
13 building would be sufficient.

14       JUDGE DOLAN: What's your response to that?

15       MS. NAUMER: Once again, the manner in which --  
16 for both instances, for the first one, for the  
17 random sampling for meter maintenance and the second  
18 one for the gas leak, the manner in which NICOR is  
19 required to go about conducting those two types of  
20 activities is governed by the ICC regulations.  
21 That's not something that NICOR created and has  
22 implemented on its own. Anything that it has is

1 duplicative of what the ICC requires of us.

2 JUDGE DOLAN: And I will agree with that that  
3 the Commission does regulate the way NICOR conducts  
4 themselves. And in instances where there is repairs  
5 or routine maintenance, they do have to follow  
6 Commission guidelines.

7 MR. JAKUBIK: So, you're certifying that they  
8 follow the guidelines?

9 JUDGE DOLAN: I am not certifying that they  
10 follow the guidelines. But, I am telling you that  
11 the way that -- we set the guidelines for them to  
12 follow. Now, if you can --

13 MR. JAKUBIK: Why --

14 JUDGE DOLAN: -- show that they -- I mean, I  
15 think that is the crux of why we are here right now  
16 is you're alleging that they didn't follow the  
17 guidelines. So, I think that that's, you know,  
18 something more that's going to take place -- it  
19 sounds like this is heading towards an evidentiary  
20 hearing, and that's something that's either going to  
21 be proved or disproved.

22 Have you followed up with the Village

1 of Mount Prospect to see whether they keep records  
2 of contacting all of the different --

3 MR. JAKUBIK: No, they don't keep any records.

4 MS. NAUMER: Your Honor, my understanding is  
5 that there -- I don't believe that there were  
6 conversations or contacts with the Village or with  
7 the police. I think if any communications have  
8 taken place, it would have occurred -- and I believe  
9 there's a civil case that either the Village or the  
10 police department filed against Mr. Jakubik. And  
11 NICOR has been called into that proceeding on  
12 occasions. And if any communications would have  
13 taken place in the context of that court proceeding,  
14 in which Mr. Jakubik is a party to, my understanding  
15 is that there were no other contacts with either the  
16 Village or the police outside of that context.

17 JUDGE DOLAN: Okay. You say there's a civil  
18 proceeding, the Village against Mr. Jakubik?

19 MR. JAKUBIK: No, not any longer.

20 JUDGE DOLAN: But, there was because of this  
21 incident?

22 MR. JAKUBIK: Oh, yeah, right. They cited me

1 for not delivering services, because they shut the  
2 gas off.

3 MS. NAUMER: My understanding of what the  
4 complaint was about, just so the record is complete,  
5 there is a Village ordinance that requires landlords  
6 to handle their duties with respect to the buildings  
7 they own and residents living in certain respects.  
8 And when certain essential services do not take  
9 place, like, for example if notices were sent and  
10 Mr. Jakubik did not respond to them and as a result  
11 of him not responding the gas was shut off and his  
12 tenants were without service, the Village then has  
13 an action to take against Mr. Jakubik for failing  
14 to, for instance, respond to the notices. And that  
15 is my understanding of what that case was.

16 JUDGE DOLAN: Is that accurate to reflect what  
17 happened, Mr. Jakubik?

18 MR. JAKUBIK: No, but, there was -- since no  
19 notices were ever received, I could never respond.  
20 But, yeah, they cited me for whatever, for not --  
21 well, actually, the only thing they cited me for was  
22 for not paying for the locksmith because they had to



1 break into my building.

2 JUDGE DOLAN: The Village broke into your  
3 building?

4 MR. JAKUBIK: Uh-hum.

5 JUDGE DOLAN: For this --

6 MR. JAKUBIK: Yeah.

7 JUDGE DOLAN: -- to get the meter replaced or to  
8 get the --

9 MR. JAKUBIK: To get the gas turned on.

10 JUDGE DOLAN: The gas turned on.

11 MR. JAKUBIK: Uh-hum.

12 JUDGE DOLAN: Okay.

13 MR. JAKUBIK: That's why I'm looking for  
14 verification of those letters being actually sent  
15 and the phone calls being actually made.

16 JUDGE DOLAN: Does NICOR, at least, have records  
17 of which person sent the letters out, or what person  
18 made the phone calls -- the follow-up phone calls?

19 MS. NAUMER: I don't know what types of records  
20 they keep in that regard. I can inquire into that.  
21 If you would like, I can follow-up on that. And if  
22 we have something further, I'll provide it.

1 JUDGE DOLAN: Because I think that's the crux of  
2 his allegation, that no one ever contacted him and  
3 that this took place without him ever being properly  
4 notified that it was taking place.

5 MR. JAKUBIK: That's correct.

6 JUDGE DOLAN: So, I think it is important that  
7 we find out -- and it seems to me that there should  
8 be, if nothing else, a work order that had to be  
9 prepared.

10 MS. NAUMER: Okay.

11 JUDGE DOLAN: You know, because I don't think  
12 they just come in in the morning and pick a building  
13 and change the meter on them without a work order  
14 being provided, would that be accurate?

15 MS. NAUMER: I don't know the answer to your  
16 question, but, I'll follow-up on it and I'll get the  
17 answer for you.

18 JUDGE DOLAN: Okay. Based on that, did you --  
19 are you sending any data responses -- or data  
20 requests back to him?

21 MS. NAUMER: No, we are not.

22 JUDGE DOLAN: And you've indicated that both

1 parties -- you've discussed it and it doesn't sound  
2 like a resolution is forthcoming to get this  
3 resolved?

4 MS. NAUMER: At this point in time, I do not  
5 believe so.

6 JUDGE DOLAN: Okay. So, I guess all we need to  
7 do now is set it down for an evidentiary hearing.

8 MR. JAKUBIK: Is that before or after I get  
9 whatever there is to get, the additional  
10 information?

11 JUDGE DOLAN: Well, how much time do you think  
12 you need to provide that?

13 MS. NAUMER: Why don't you give us a week and I  
14 think we'll be able to turn it around. If, for some  
15 reason we're not, I'm hoping a few days won't  
16 make -- since, typically, you have 28 days to  
17 respond to discovery. We'll try to do it within a  
18 week, a week. I can't predict. You never know what  
19 you might run into.

20 JUDGE DOLAN: How about if I give you two  
21 weeks --

22 MS. NAUMER: Okay.

1 JUDGE DOLAN: -- and, then, that should  
2 sufficiently cover it. Do you want me to set it  
3 down for a status in two weeks, or do you want to  
4 just be able to respond in the two weeks and we can  
5 set this, like, six weeks out for trial, or  
6 something of that nature?

7 MS. NAUMER: I would think we'd be able to set  
8 it for trial. What we could do, I don't know if it  
9 would be helpful to you, I know the ALJs do not,  
10 typically, get discovery responses, but for these  
11 three things that we've identified today, if I  
12 included you on that distribution, so everyone knows  
13 what they've received and when they received it,  
14 perhaps, we can avoid coming back for a status  
15 hearing.

16 JUDGE DOLAN: That's fine with me.

17 Are you okay with that, Mr. Jakubik?

18 MR. JAKUBIK: As long as I have sufficient time  
19 to review it.

20 JUDGE DOLAN: Okay. What is the time period in  
21 November that you're not available?

22 MR. JAKUBIK: November? The 5th through the

1 18th.

2 JUDGE DOLAN: The 5th through the 18th.

3 Assuming that you're, probably, not going to want to

4 get right back into it right after that, and then

5 the following week is Thanksgiving week. I would,

6 probably, figure, then, we'd, probably, either want

7 to do -- probably looking at the first week of

8 December as possible for trial dates.

9 MR. JAKUBIK: That's fine.

10 JUDGE DOLAN: Okay. How's Thursday,

11 December 4th look for everybody?

12 MR. JAKUBIK: Okay.

13 MS. NAUMER: That's fine.

14 JUDGE DOLAN: If we're going to do a trial we,

15 probably, should start it at, probably, 10:00

16 o'clock would be fine.

17 Mr. Jakubik, are you planning on

18 having any other witnesses?

19 MR. JAKUBIK: No, I haven't put together a list

20 of any as of yet. Do I need to give he a list?

21 JUDGE DOLAN: Well, the way that we have

22 hearings here at the Commission is that you file

1 direct testimony, which is, basically, almost  
2 like -- I don't know if you're familiar with a  
3 deposition, but, basically, you go through your list  
4 of questions, a person answers it, and then, they  
5 come in here live to be cross-examined by the  
6 opposition.

7 MR. JAKUBIK: Oh, so, I have to write out my  
8 questions first, send them in, is that what you're  
9 saying?

10 MS. NAUMER: Do you want to do written testimony  
11 or do you --

12 JUDGE DOLAN: Well, we can just do all live  
13 testimony, that would be fine, too. Why don't we  
14 just do that, make it easier, just so you don't have  
15 to deal with it. I mean, normally, it's done that  
16 way, but I don't think -- do you anticipate  
17 witnesses?

18 MS. NAUMER: I know that we will have one  
19 company representative, probably, Tom Moretti. And  
20 we will have the supervisor here, too, to respond to  
21 the questions.

22 MR. JAKUBIK: Who is Tom Moretti?

1 MS. NAUMER: He's a company representative who  
2 will testify to the company's position on these  
3 issues.

4 JUDGE DOLAN: And procedures?

5 MS. NAUMER: Uh-hum.

6 MR. JAKUBIK: But, he does not have anything to  
7 do with the background. He's just going to  
8 verbalize --

9 MS. NAUMER: The written procedures, once,  
10 again, are the Commission guidelines, Commission  
11 regulations.

12 MR. JAKUBIK: Oh, so, he's just going to restate  
13 the Commission's guidelines?

14 MS. NAUMER: I don't know what he's going to do  
15 at this point in time, but, he will be one of our  
16 witnesses.

17 JUDGE DOLAN: Okay.

18 Is there any other issues to deal  
19 with, then, today?

20 MR. JAKUBIK: No, that should do it.

21 JUDGE DOLAN: All right. Then, we'll be entered  
22 and continued until December 4th, at 10:00 a.m. for

1 trial.

2 MR. JAKUBIK: Thank you.

3 MS. NAUMER: Thank you.

4 (Whereupon, the proceedings  
5 in the above-entitled matter  
6 was continued to 12-4-03.)

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